

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
THE RAIL NETWORK, INC.)	ET No. 06-161
Request for Waiver of Section 15.209 of the)	
Commission's Rules)	

**REPLY COMMENTS OF
NATIONAL PUBLIC RADIO, INC.**

Introduction

Pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.405, National Public Radio, Inc. ("NPR") hereby submits these Reply Comments regarding the above-referenced request by The Rail Network, Inc. ("TRN") for waiver of Section 15.209 of the Commission's rules to permit the widespread deployment in mass transit rail systems of unlicensed transmitters operating throughout the FM band.¹

NPR is a non-profit membership corporation that produces and distributes noncommercial educational programming through more than 800 public radio stations nationwide. In addition to producing and distributing such award winning

¹ See The Rail Network, Inc., Request for Waiver of Section 1.3 and 15.209 Interference Protection Showing, ET 06-161, filed June 23, 2006 [hereinafter "Waiver Request"]; Public Notice, DA 06-1649, Aug. 17, 2006.

programs as *All Things Considered*[®], *Morning Edition*[®], and *Talk Of The Nation*[®], NPR operates the Public Radio Satellite Interconnection System and provides representation and other services to its member stations.

NPR shares the concerns expressed by the National Association of Broadcasters ("NAB").² We recognize that, given recent history, a service that offers real-time public safety information to mass transit passengers appears to serve an important public interest. Upon closer examination, however, the Waiver Request fails to substantiate the need for such a service, it fails even to explain why the proposed technical parameters are required, and it does not demonstrate how existing radio services will be protected. Accordingly, based on the current record, the Commission staff has no choice but to deny the Waiver Request.

As the NAB Comments point out, while the promise of real time public safety information may, at first blush, sound like a good idea, mass transit passengers would be able to receive such information only if they happened to be carrying and listening to portable radios.³ Moreover, it is not clear why such a service would be more effective than using a train's existing loudspeaker system to disseminate information in the event of an emergency. Indeed, the Waiver Request acknowledges that its system would operate completely separately from the transit

² Comments of the National Association of Broadcasters, ET Docket No. 06-161, filed Sept. 18, 2006 [hereinafter "NAB Comments"].

³ NAB Comments at 7-8.

system's public communications system.⁴

Even assuming the merits of the proposed service, however, the Waiver Request fails to justify the technical parameters of the proposed service, and it does not provide any technical basis for the claim that existing radio services would be protected. Indeed, with the substantial amount of power contemplated -- 87.0 dBμ V/m -- combined with a lack of testing of signal attenuation outside of individual rail cars, interference to existing services would be expected. Yet, as NAB notes, the Waiver Request is less-than-forthcoming in explaining how interference would be avoided and, just as importantly, what TRN would do to address interference that occurs.⁵

Finally, the emerging transition to HD Radio is a particularly inopportune time to authorize a novel new radiofrequency service that would utilize frequencies throughout the FM band. Public radio, with substantial Federal financial support,⁶

⁴ See Waiver Request at 6 ("Transit authorities . . . have prohibited the use of public speaker systems.")

⁵ See NAB Comments at 6-7.

⁶ To date, the Corporation for Public Broadcasting has awarded more than \$33 million to more than 301 public radio stations serving 42 states, Puerto Rico, and the District of Columbia. Corporation for Public Broadcasting Appropriation Request and Justification FY2007 and FY 2009, Submitted to the Labor, Health and Human Services, Education, and Related Agencies Subcommittee of the House Appropriations Committee and to the Labor, Health and Human Services, Education, and Related Agencies, Subcommittee of the Senate Appropriations Committee, Appendix F, Feb. 2006, reprinted at http://www.cpb.org/aboutcpb/financials/appropriation/justification_07-09.pdf. In addition, the National Telecommunications and Information Administration of the Department of Commerce has also awarded digital conversion funding to public radio stations through the Public Telecommunications Facilities Program. See, e.g.,

has embraced HD Radio primarily because of its multicast capabilities and the promise of offering new program services to their communities. Many public radio stations also operate with reduced power -- for instance, to accommodate television Channel 6 stations or because they are "blocked in" by the contour overlap methodology the Commission utilizes to site stations in the reserved portion of the FM band -- and many public radio stations serve listeners on the fringes of their coverage areas. For public radio stations, therefore, interference caused by the TRN service could be particularly disruptive to existing services as well as to new multicast services.

Conclusion

For the foregoing reasons, and however promising the proposed service may appear to be, TRN has not demonstrated either the public interest or technical basis for granting the Waiver Request. Accordingly, we urge the Commission staff to deny the request.

Respectfully Submitted,

Gregory A. Lewis /s/
Neal A. Jackson
Vice President for Legal Affairs
General Counsel and Secretary
Michael Riksen,
Vice President, Government Relations
Dana Davis Rehm
Vice President for Member and Program

http://www.ntia.doc.gov/ptfp/Projects/2006/ptfpfactsheet_2006.htm (nine FY 2006 digital radio conversion grants totaling \$604,237).

Services

Michael Starling
Vice President, Chief Technology Officer
Gregory A. Lewis
Associate General Counsel

National Public Radio, Inc.
635 Massachusetts Avenue, N.W.
Washington, DC 20001

October 3, 2006